

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

LEHMAN BROTHERS SECURITIES AND  
ERISA LITIGATION

This Document Applies To:

*In re Lehman Brothers Equity/Debt Securities  
Litigation*, 08-CV-5523 (LAK)

Civil Action 09 MD 2017 (LAK)

**ECF CASE**

**DECLARATION OF DAVID KESSLER IN SUPPORT OF LEAD PLAINTIFFS'  
OPPOSITION TO DEFENDANTS' MOTION TO DISMISS  
THE SECURITIES ACT CLAIMS**

DAVID KESSLER, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner in the law firm of Barroway Topaz Kessler Meltzer & Check, LLP. I respectfully submit this declaration in support of the memorandum of law filed by the Alameda County Employees' Retirement Association, Government of Guam Retirement Fund, Northern Ireland Local Government Officers' Superannuation Committee, City of Edinburgh Council as Administering Authority of the Lothian Pension Fund, and Operating Engineers Local 3 Trust Fund, in Opposition to Defendants' Joint Motion to Dismiss the Securities Act Claims.

2. Attached as Exhibits A-G are copies of the following documents:

**Exhibit A:** Certifications of Rick Fleischman, Michael Karfunkel, Ann Lee, and Ronald Profili

**Exhibit B:** Corrected Appendix A

**Exhibit C:** LEH – Q3 2008 Preliminary Lehman Brothers Holdings Inc. Earnings Conference Call transcript dated September 10, 2008

**Exhibit D:** Financial Accounting Standards Board, Statement of Financial Accounting Standards No. 157 (“SFAS 157”), *Fair Value Measurements*, issued September 2006

**Exhibit E:** Tim Krumwiede, Ryan M. Scadding, and Craig D. Stevens, *Mortgage-Backed Securities and Fair-Value Accounting* The CPA Journal (May 2008)

**Exhibit F:** *Measurements of Fair Value in Illiquid (or Less Liquid) Markets* dated October 3, 2007

**Exhibit G:** April 2008 Free Writing Prospectus

**Exhibit H:** June 2008 Free Writing Prospectus

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in Radnor, Pennsylvania on this 29th day of June, 2009.

/s/ David Kessler

David Kessler